

DEPARTMENT OF TRANSPORTATION**AUDITS AND INVESTIGATIONS**

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January 14, 2010

Mr. Dennis Fay
Executive Director
Alameda County Congestion Management Agency
1333 Broadway, Suite 220
Oakland, CA 94612

Re: Alameda County Congestion Management Agency
Audit of Indirect Cost Allocation Plan for FY 2008/2009
File Number: P1591-0010

Dear Mr. Fay:

We have audited the Alameda County Congestion Management Agency's (ACCMA) Indirect Cost Allocation Plan (ICAP) for the fiscal year (FY) ended June 30, 2009, to determine whether the ICAP is presented in accordance with 2 Code of Federal Regulations (CFR) Part 225 and the Department of Transportation's (Department) Local Programs Procedures (LPP) 04-10. ACCMA management is responsible for the fair presentation of the ICAP. The ACCMA proposed an indirect cost rate of 120.85 percent of total direct salaries and wages plus fringe benefits.

Our audit was conducted in accordance with the Standards for Performance Audits set forth in the *Government Auditing Standards* issued by the Comptroller General of the United States of America. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of ACCMA. Therefore, we did not audit and are not expressing an opinion on the ACCMA's financial statements.

The standards require that we plan and perform the audit to obtain reasonable assurance about whether the data and records reviewed are free of material misstatement, as well as material noncompliance with fiscal provisions relative to the ICAP. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records reviewed. An audit also includes assessing the accounting principles used and significant estimates made by ACCMA, as well as evaluating the overall presentation.

The accompanying ICAP was prepared on a basis of accounting practices prescribed in the 2 CFR Part 225 and the Department's LPP 04-10, and is not intended to present the results of operations of ACCMA in conformity with generally accepted accounting principles.

The scope of the audit was limited to select financial and compliance activities. The audit consisted of a recalculation of the ICAP, a review of ACCMA's single audit report for the FY ended June 30, 2007, inquiries of ACCMA personnel and reliance placed on the single audit report for the FY ended June 30, 2007, and prior audit field work performed by the Department in August 2008. We believe that our audit provides a reasonable basis for our conclusion.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

The results of this audit were communicated to Yvonne Chan, ACCMA Accounting Manager. Our findings and recommendations take into consideration the ACCMA's response to our draft finding. Our findings and recommendations, a summary of the ACCMA's response and our analysis of the response are detailed below.

AUDIT RESULTS

Based on audit work performed, ACCMA's ICAP for the FY ended June 30, 2009, is presented in accordance with 2 CFR Part 225 and LPP 04-10. The approved indirect cost rate is 120.85 percent of total direct salaries and wages, plus fringe benefits. The approval is based on the understanding that a carry forward provision applies and no adjustment will be made to previously approved rates.

Audit Findings

Finding 1

The ACCMA included unallowable costs in its initial and subsequent FY 08/09 submittals. Specifically,

- The ACCMA incorrectly included \$21,600 of unallowable legislative advocacy costs for the budgeted FY 08/09 indirect cost rate. CFR 2 Part 225, Appendix B, Section 24a states, "The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements or loans is an unallowable cost." The approved rate was adjusted by ACCMA to exclude unallowable costs.
- The ACCMA carry forward for FY 06/07 actuals included \$3,000 of unallowable legal counsel board meeting related costs and \$8,000 of copying, postage and office expense for board meetings. CFR 2 Part 225, Appendix B, Section 24a states, "The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements

or loans is an unallowable cost.” In addition, CFR 2 Part 225, Appendix B, Section 19a (2) states, “The general costs of government are unallowable. These include salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction.” The approved rate was adjusted by ACCMA to exclude unallowable costs.

- The ACCMA carry forward for FY 06/07 actuals incorrectly included \$35,246 of capital outlay which is unallowable. CFR 2 Part 225, Appendix B, Section 15b (1) states, “Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except where approved in advance by the awarding agency.” The approved rate was adjusted by ACCMA to exclude unallowable costs.

Recommendation

The ACCMA should ensure that expenditures for legislative advocacy, board-related costs, and capital expenditures are excluded from future ICAPs as these costs are unallowable per CFR 2 Part 225.

ACCMA’s Response

The ACCMA concurs with the recommendation and will ensure that Legislative Advocacy, Board-related costs, and capital expenditures are excluded from future proposed ICAP calculations. However, ACCMA reiterated that 70 percent of their budget is composed of state and federal funding to deliver capital projects on the state highway system. Their staff spend considerable time in Sacramento appearing before the California Transportation Commission in response to questions regarding funding and programming issues. Similarly, staff is required to appear before legislative and administrative bodies in Washington to represent the region and the state before federal agencies on specific project issues. These appearances are a requisite to and critical part of the ACCMA’s day-to-day business in ensuring adequate funding for the region and state on specific projects. The ACCMA believes that a percentage of their lobbying costs should be allowable indirect costs due to the nature of their agency is to deliver capital projects. The lobbyist is a critical part for the agency to ensure adequate funding for the region.

Analysis of Response

The ACCMA concurs in part with our finding and recommendation. Finding and recommendation remain unchanged.

This report is intended solely for the information of ACCMA, Department Management, the California Transportation Commission and the Federal Highway Administration (FHWA). This report is a matter of public record and will be included on the “Reporting Transparency in Government” website.

Please retain the approved ICAP for your files. Copies were sent to the Department's District 4, the Department's Division of Accounting and the FHWA. If you have any questions, please contact Annabel Alvarez, Auditor at (916) 323-7871 or Cliff Vose, Audit Manager, at (916) 323-7917.

MARYANN CAMPBELL-SMITH
Chief, External Audits – Local Government

Attachments

- c: Brenda Bryant, Director, Financial Services, Federal Highway Administration
- Sue Kiser, Director, Planning and Air Quality, Federal Highway Administration
- James Ogbonna, Chief, Rural Transit and Intercity Bus Branch, Division of Mass Transportation
- David Saia, Senior Transportation Engineer, Policy Development and Quality Assurance, Division of Local Assistance
- Jenny N. Tran, Associate Account Analyst, Local Program Accounting Branch, Local Assistance
- Andrew Knapp, Associate Transportation Planner, Regional and Interagency Planning, Division of Transportation Planning
- Sylvia Fung, Local Assistance, District 4
- File copy: P1591-0010

**Alameda County Congestion Management Agency
Indirect Cost Plan**

The indirect cost rate contained herein is for use on grants, contracts and other agreements with the Federal Government and California Department of Transportation (Department), subject to the conditions in Section II. This plan was prepared by Alameda County CMA and approved by the Department.

SECTION 1: Rates

<u>Rate Type</u>	<u>Effective Period</u>	<u>Rate*</u>	<u>Applicable To</u>
Fixed with carry forward	7/01/08 to 6/30/09	120.85%	All Programs

* Base: Total Direct Salaries and Wages plus fringe benefits

SECTION II: General Provisions

A. Limitations:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract, or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its indirect cost pool as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as indirect costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government or the Department. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government or the Department; (5) Prior actual costs used in the calculation of the approved rate are contained in the grantee's Single Audit, which was prepared in accordance with OMB Circular A-133. If a Single Audit is not required to be performed, then audited financial statements should be used to support the prior actual costs; and, (6) This rate is based on an estimate of the costs to be incurred during the period.

B. Accounting Changes:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs, which affect the amount of reimbursement resulting from the use of this Agreement, require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowances.

C. Fixed Rate with Carry Forward:

The fixed rate used in this Agreement is based on estimate of the costs for the period covered by the rate. When the actual costs for this period are determined—either by the grantee's Single Audit or if a Single Audit is not required, then by the grantee's audit financial statements—any differences between the application of the fixed rate and actual costs will result in an over or under recovery of costs. The over or under recovery will be carried forward, as an adjustment to the calculation of the indirect cost rate, to the second fiscal year subsequent to the fiscal year covered by this plan.

D. Audit Adjustments:

Immaterial adjustments resulting from the audit of information contained in this plan shall be compensated for in the subsequent indirect cost plan approved after the date of the audit adjustment. Material audit adjustments will require reimbursement from the grantee.

E. Use by Other Federal Agencies:

Authority to approve this agreement by the Department has been delegated by the Federal Highway Administration, California Division. The purpose of this approval is to permit subject local government to bill indirect costs to Title 23 funded projects administered by the Federal Department of Transportation (DOT). This approval does not apply to any grants, contracts, projects, or programs for which DOT is not the cognizant Federal agency.

The approval will also be used by the Department in State-only funded projects.

F. Other:

If any Federal contract, grant, or other agreement is reimbursing indirect costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of indirect costs allocable to these programs.

G. Rate of Calculation:

FY 2009 Budgeted Indirect Costs	\$ 2,685,237
Carry Forward from FY 2007	<u>191,621</u>
Estimated FY 2009 Indirect Costs	\$ 2,876,858
FY 2009 Budgeted Direct Salaries and Wages plus Fringe Benefits	2,380,450
Estimated FY 2009 Direct Salaries and Wages plus Fringe Benefits	<u>\$ 2,380,450</u>
FY 2008/2009 Indirect Cost Rate	120.85%

CERTIFICATION OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

- (1) All costs included in this proposal to establish billing or final indirect costs rates for fiscal year 2009 (July 1, 2008 to June 30, 2009) are allowable in accordance with the requirements of the Federal and State award(s) to which they apply and 2 Code of Federal Regulations, Part 225, "Cost Principles for State, Local and Indian Tribal Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

- (2) All costs included in this proposal are properly allocable to Federal and State awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government and the Department will be notified of any accounting changes that would affect the fixed rate.

I declare that the foregoing is true and correct.

Governmental Unit: Alameda County Congestion Management Agency

Signature: _____

Signature: _____

Reviewed, Approved and Submitted by:

Prepared by:

Name of Official: Dennis Fay

Name of Official: Yvonne Chan

Title: Executive Director

Title: Accounting Manager

Date of Execution: 10/20/2008

Telephone No.: (510) 836-2560

INDIRECT COST RATE APPROVAL

The Department has reviewed this indirect cost plan and hereby approves the plan.

Signature

Signature

Reviewed and Approved by:

Reviewed and Approved by:

Clifford R Vose

Annabel Alvarez

Name of Audit Manager

Name of Auditor

Title: Senior Management Auditor

Title: Staff Mgmt Auditor (Spec.)

Date: 14 JAN 10

Date: 11-9-09

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